Excerpt from the CITY PLANNING COMMISSION MINUTES Minneapolis Community Planning & Economic Development (CPED)

Planning Division

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MEMORANDUM

DATE: December 10, 2012

TO: Steve Poor, Planning Manager – Zoning Administrator, Community Planning &

Economic Development - Planning Division

FROM: Hilary Dvorak, Interim Planning Manager, Community Planning & Economic

Development - Planning Division, Development Services

CC: Jason Wittenberg, Interim Planning Director, Community Planning & Economic

Development Planning Division

SUBJECT: Planning Commission decisions of November 13, 2012

The following actions were taken by the Planning Commission on November 13, 2012. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Commissioners present: Cohen, Kronzer, Luepke-Pier, Schiff, Tucker and Wielinski – 6

Not present: President Motzenbecker (excused), Huynh (excused) and Mammen (excused)

Committee Clerk: Lisa Baldwin (612) 673-3710

3. Zoning Code Text Amendment (Ward: All), (Aly Pennucci).

A. Text Amendment: Amending Title 20 of the Minneapolis Code of Ordinances related to the Zoning Code, as follows:

Amending Chapter 520 Chapter 520 relating to the Zoning Code: Introductory Provisions

Amending Chapter 536 related to the Zoning Code: Specific Development Standards

The purpose of the amendment is to revise the definition and development standards regarding the supportive housings uses, including revisions to the spacing requirements.

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the zoning code text amendment, amending chapters 520 and 536, with the following changes:

(1) Supportive housing shall be located at least one-fourth (1/4) mile from all existing supportive housing and from all of the following uses, except in the B4H Overlay

District:

- a. Community correctional facility.
- b. Community residential facility.
- c. Inebriate housing.
- d. Motel.
- e. Overnight shelter.
- (2) The maximum number of persons served shall not exceed thirty-two (32), except in the B4H Overlay District.

Aye: Cohen, Kronzer, Luepke-Pier, Schiff and Wielinski

Absent: Huynh, Mammen and Motzenbecker

Motion passed.

Staff Pennucci presented the staff report.

Commissioner Luepke-Pier: In regard to the map, do the triangles that indicate supportive housing, is that supportive housing under the new or old definition?

Staff Pennucci: The existing supportive housing projects that have been approved previously so it's under the existing definition. I didn't review or have files for every single project, but most of the 32 that I've reviewed more thoroughly recently, most if not all of those would still be considered supportive housing based on the information that was provided in the application to staff.

Commissioner Luepke-Pier: The 12 that you mention that were part of the reasonable accommodation, do you know where those are located?

Staff Pennucci: I do have another map that shows just the supportive housing uses. On this map, the squares are the locations of where reasonable accommodation has been granted. That may have been granted because of proximity to another supportive housing use or a different type of congregate living facility. The triangle is one where I could clearly find that there was no reasonable accommodation requested. The stars are ones located in the B4H overlay so they're not subject to that. The circles are uses are ones that I haven't determined whether or not they asked for or received reasonable accommodation, but they are nonconforming to the spacing so they would have needed reasonable accommodation if they came in today.

Commissioner Luepke-Pier: Of the 32 projects, 12 got approved for reasonable accommodation exceptions; how many potential projects got denied based on spacing for reasonable accommodation?

Staff Pennucci: I am only aware of one recent project that wouldn't be eligible for applying for reasonable accommodations. You do have to be serving a population that is protected by the Fair Housing Act. I don't have a record of other projects that go away, essentially, because they don't meet the spacing, oftentimes how it works is when the inquiries come in to staff and we start

looking into it, the spacing requirement is one of the first things that we will look at and ask the applicant to go out and identify other uses. If they can't meet that and they're not eligible for reasonable accommodation, those projects are often rethought. They go to another city or another location in the city and we don't have a tracking mechanism for those projects.

Commissioner Kronzer: Thank you for a very comprehensive staff report. I know you worked hard on it. Can you help us understand how the reasonable accommodation affects a project and walk us through the steps?

Staff Pennucci: Let's assume it's a new development, when a new project is coming forward staff will first look at whether or not the use meets the spacing requirement. If we identify that it does not, we may then work with the applicant to ask them to provide information about whether or not they are serving a population that would meet the requirements for reasonable accommodation. It is then on the applicant to submit an application that is now reviewed administratively by staff demonstrating and documenting that that will be the populations that they will be serving and it gets reviewed by staff as well as our city attorney to grant reasonable accommodation. That may be happening concurrently with the other land use applications required for a new development for supportive housing that would be, at minimum, a conditional use permit and site plan review. Before we're making a recommendation on a site plan and a conditional use permit we need to know whether or not they can meet the specific development standards so that decision has to be made first.

Commissioner Kronzer: Are you aware of any case law where a city tried to enforce their zoning code that came up against the Fair Housing Act with regards to spacing?

Staff Pennucci: I'm not a lawyer so I'm not as familiar. I know that much of these ordinances around the country in terms of reasonable accommodation and other mechanisms do come from challenges to denials for different types of housing projects, but I can't quote specific case law.

Commissioner Wielinski: Could you tell me, do we have grid or legends to tell me how far a quarter mile is on here?

Staff Pennucci: That would be something I'd normally include on a map, but I didn't. To make it visible at the whole city scale, the dots are quite a bit larger than a parcel would appear on the map. I can show you an example of where I know there is a spacing issue. In this area, there are several uses where some of these uses are within a quarter mile of each other so if you put something there I think within a quarter mile of this one and this green square, for example.

Commissioner Tucker opened the public hearing.

Brian Bushay (1715 Emerson Ave): The CommonBond housing project that precipitated all this I think is a reasonable project and I was surprised when the educational supplement that they wanted to give caused this whole issue to come up. I believe that taking away the quarter mile spacing is like throwing the baby out with the bath water. I live in a neighborhood that has supportive housing facilities and these other facilities that can't be grouped together grouped much tighter than a quarter mile concentration right now. You should know a little history of this ordinance that Brian Coyle, Council member here that started this ordinance in the 80s because neighborhoods that had large houses that sold at a relatively low price were being bought up quickly by group homes. That's the case of a lot of the sixth ward where Brian Coyle represented. It's also the case in the Old Highland neighborhood. With the prices of housing today and the housing size hasn't changed, those same dynamics are going to come roaring back

if you take away this quarter mile spacing limitation. Old Highland is a small neighborhood, it's not an official city neighborhood, it's like six by six blocks, but our blocks are much smaller than they are in most of the rest of the city with only six or seven houses on them. In most parts of the city, the quarter mile spacing is basically a block on a north to south basis. In our neighborhood it's one every other block. It does make a difference to the neighborhood, it makes it much harder to get people to buy houses in the neighborhood. It makes it harder to get good renters. They want to know what every one of these social service things that are in their neighborhood does and how they're going to impact their lives and a lot of them will just move on. I think I live in a very successful neighborhood, but it takes a lot of work to do that and most of that work is provided by the homeowners that live there, a lot of volunteer hours. I think we get a lot of very favorable publicity for Minneapolis and the north side and in the inner city and I don't like to put that at risk. If the amount of social services in my neighborhood would be significantly increased, I would have a flight of homeowners on my hands and probably not be able to have a neighborhood that ran successfully anymore. If you take away this quarter mile spacing, what you're going to be telling the developers of these types of housing is that it's ok to concentrate your housing in the areas where there's least resistance. Concentrating these in a minimum of areas is not going to promote more understanding of them. The only you're going to get more understanding is if you can actually disperse these services so that everybody becomes familiar with them to some extent. I ask you not to take away the quarter mile spacing unless you can come up with some other method that will ensure some distribution of these projects equitably throughout the area. What we've seen under the quarter mile spacing is a lot of organizations will build a new building on land that's available that's out of the quarter mile spacing or they'll even go out to the suburbs. I've lived in Minneapolis for more than 30 years and I've seen the change when congregate living and group homes first started to develop they only wanted to develop in very small areas of the city and now we have some dispersal. We have some building nice new buildings in the suburbs. Thank you.

Jim Gertmenian (2441 Pleasant Ave): I'm the senior minister at Plymouth Congregational Church at the corner of Franklin and Nicollet. I also co-chaired the commission that came up with Heading Home Hennepin which has given us a goal of ending homelessness in our community by 2016 and I'm on the board of Portico Interfaith Housing Collaborative. My neighborhood has a number of supportive housing institutions in it and my experience in living in that neighborhood and working daily in that neighborhood has been that those institutions have strengthened and enriched the life of the neighborhood and not taken away from the quality of life there. Many of you know about Lydia Apartments, which was the first project of Portico, which used to be called the Plymouth Church Neighborhood Foundation. At the time we proposed Lydia Apartments, which is on LaSalle between Franklin and Groveland and right across the street from Plymouth Church, a small but very vocal group of neighbors citing the quarter mile rule attempted to stop Lydia Apartments from being developed. What ensued was a lengthy appeal process both here and through the courts. In the end, we prevailed and ten years later I think most people would agree that Lydia Apartments is an enhancement to the neighborhood in which it's found. It has strengthened the life of the neighborhood. It is something that many people, including some who were opposed to it when it first came in, are very proud of. Similarly, just recently you know that Portico opened Nicollet Square, which is housing for formerly homeless youth. Had the property we owned been one block south from where it is, it would have come under the quarter mile spacing rule and we would have had difficulty doing what is an enhancement to the neighborhood and an important part of the overall fabric of our city's attempt to end homelessness. In the name of that overall goal which I know you all joint us in, with the understanding that supportive housing is an important part of the fabric that is necessary to reaching that goal and with the understanding that we have many experiences in which the

quarter mile rule has been overruled and found not to be a problem, I would urge you to move towards removing the quarter mile rule.

Commissioner Luepke-Pier: In those two examples you cited, can you tell me whether or not the quarter mile would have even come into play because they would have been redefined as not being under the current definition?

Jim Gertmenian: Given what the new definition is, I'm not sure. At the time, Lydia certainly was, but I don't know under the new definition whether it would fall under that or not.

Jean Mangan (1711 Emerson Ave N): I've lived in north Minneapolis for a little over 25 years. I'm in favor of supportive housing, but I'm not in favor of removing the quarter mile boundary. I grew up in a very at risk family with food scarcity and family troubles. I succeeded, I believe, because I lived in a neighborhood where there were working adults and the intensity of need was not overwhelming. When I look at my neighborhood, I found a map that did have the quarter mile and they're very heavily overlapping where I live. I believe in mentors. I volunteered for three of the last eight years at Minneapolis Public Schools helping kids learn how to read and get their skills up to grade level. There are some at risk families in my neighborhood that I really tried to bring under my arm to help, but I think the intensity of need and the intensity of services that happen in extreme poverty or extreme needs of service can overwhelm the people who are trying to function as mentors to the community. I recently heard a statistic that of the children in my immediate neighborhood, 90% are living in poverty or extreme poverty. I looked at that map and I see many opportunities for supportive housing other places in the city. I strongly support supportive housing, but I think increasing the extreme intensity is not good for people who need those services.

Nikki Carlson (1717 Dupont Ave N): My first experience with affordable housing was when I lived in Golden Valley in the Hidden Lakes development. I don't know if you remember that, but the neighbors were up in arms that there would be affordable housing in their neighborhood and I became aware of it and fought for it and testified for it and became more aware of the issue. I started the social justice committee at St. Joan of Arc church and was one of the first people to start Interfaith Action now Isaiah and worked on the affordable housing committee there. This goes back 20 years. About two and half years ago, I bought a house in north Minneapolis thinking that I could be part of the solution. Five years ago you would have heard me talking just like this guy from Plymouth Congregational Church and saying things like these things enhance the neighborhood, and I do believe that in some cases they do, but my experience... I don't think our neighborhood is enhanced. Nobody I know hasn't either been the victim of a crime or witnessed a crime. Personally, I've been the victim of three property crimes since I moved in and one person on person crime at my house. I don't think that's a place where you want to put people who need supportive housing. I think that things are as concentrated there as they can be and to concentrate it further is doing a disservice to people you want to serve. It's a difficult neighborhood to live in. If someone needs supportive housing, they should be living in a neighborhood that's not so difficult to live in that has better schools and better amenities than my neighborhood.

Angie Nelson (1514 Dupont Ave N): I've lived there over 40 years. It's a hard neighborhood to live in. We've worked very hard to make is safe for families to raise their children. We can't do much about the schools, but we can try to make it a neighborhood where the village supports the children and the families who live there. We already have more than enough supportive housing in our neighborhood. We are considered a high impact neighborhood for high poverty. There are plenty of other parts of the city, according to the map shown by the city staff person, where they

do not have any supportive housing. I know that the Linden Hills neighborhood has a policy asking for more affordable housing and yet they are not given the chance to have that kind of development in their neighborhood. Instead, they get high income condo developments and apartment buildings. The success of the one quarter mile spacing is apparent somewhat because there is not more density than there already is shown on the map, but to take away that one quarter mile restriction is just going to overwhelm neighborhoods like mine. North Minneapolis, because of the tornado and foreclosures, has an awful lot of vacant lots right now. Put the supportive housing in neighborhoods that can better support it, not just the staff that are employed to take care of it, but all the neighbors, surrounding businesses, the schools and other social service agencies – they are getting too much work when you concentrate supportive housing in certain neighborhoods. You've got to disperse it. It's successful for the people who are then being taken care of and for the neighborhoods and for the people who are providing supportive housing because they can have a better track record to prove their model works. Please maintain the quarter mile requirement. Thank you.

Will Stensrud (1827 Girard Ave N): I've been a resident at my address for eight years. I also serve on the board of directors at the YMCA Youth and Teen Enrichment Center on Broadway. I'm also a member of Westminster Presbyterian Church in downtown Minneapolis. I'd like to add some statistics that are very specific to my neighborhood. Our neighborhood is quite successful in being able to gather positive attention. The statistics from the 2010 Census state that 36% of our households are below the poverty level. When you look at households that have families, that number rises to 47% and when you look at the number of children, that number is 87%. I would challenge anybody to find areas in south Minneapolis that resemble this. South Minneapolis and suburban areas are areas that can handle these sorts of services. When we're looking at families and children, this is not an environment to be messing with compounding the issue with more social service. These are issues we are working strongly on and issues that we want to collaborate on but we just simply cannot have policies that are continuing to concentrate poverty and social service. Thank you.

Carol Lansing: On this matter we're representing CommonBond on the appeal they filed regarding classifying them as supportive housing. For some of you who may not know, I was working for the City Attorney's office when the Lydia House project came forward and I defended the City's waiver of the spacing requirement under the Fair Housing Act and I did research that case law and overwhelmingly spacing requirements that apply to housing for people with disabilities are invalidated under the Fair Housing Act as discriminatory. Ironically, the Curve project is not housing for people with disabilities so it's not eligible to apply for a waiver under the Fair Housing Act and there is no variance available to the spacing requirement under the City's code. What is the Curve? The Curve is not housing for people coming out of homelessness or people in poverty, the rents will be families with household income at 50-60% of AMI so that's basically market rate housing in the West Broadway neighborhood. This housing has received funding through the City's funding processes and the services it provides are things like homework and mentoring programs for kids, computer classes, community building activities, financial planning skills and professional development. This is not something that somebody is trying to concentrate in areas of poverty. As I indicated, the City's definition of supportive housing is so broad that it captures a housing development like the Curve. It brings to question why it also doesn't capture housing projects like the Uptown Elan, the greenway development on the Bennett Lumber site where there's fitness centers – someone could come in and give programs about financial investment advice. There could be massage therapy that's brought into these more luxury apartments. Our argument in the appeal is that the supportive housing definition is so broad that it would capture projects like that. There really is a problem with the supportive housing definition and it needs to be addressed. I'd like to give you a little

history of why we got this definition, which I did research on when we had the Lydia House project, it was created in the 1990s and was part of a comprehensive revision of definitions of congregate living facilities, things like homeless shelters, community residential facilities, transitional housing, battered women shelters and things that you had room and community facilities. The definition of supportive housing was intended, I believe at that time, to really just address congregate housing because they did not have the models that we have now of affordable housing with services. There was no anticipation of the problem that was going to be resulting 20 years later. I think it was only intended to apply to congregate living facilities and that's why spacing was relevant because multiple family housing is a type of land use that is recognized in the zoning code, there's no spacing requirement. If it's a multiple family district you can have multiple apartment buildings. A congregate facility is a different type of use. You don't want to build those and change the land use pattern in any great concentration. Spacing can be relevant based on that kind of land use, but is not relevant today when we're talking about apartment buildings. Supportive housing is used in the community development industry in a way that doesn't match the definition of supportive housing in the code, but I'd like to distinguish housing with services like the Curve and like the Bennett Lumber site which is housing with amenities. This is part of the problem we're running into. You asked if Lydia House would be subject to a spacing requirement under the proposed definition, it would not be because I confirmed with Jim that they do not require people to participate in services. In terms about concentration and where we have housing for people who are on the lower economic end, people in poverty or coming out of homelessness, I would wager that almost all of those projects are funded through the City's funding processes and that that is the place...the concentration of poverty is one factor that they look at in where people are applying to have funds to develop these programs, but there are other factors that they consider too in terms of transit, where people want to live, where people need affordable housing and there's a lot of factors but one of them does include concentration and I think that is the appropriate place for things like spacing to be addressed in terms of where the City chooses to fund these programs. I don't understand the concern that eliminating spacing requirements is going to attract in ratty landlords because the programs that are building the housing that you see coming before you they are great management of their housing. One other clarification, no spacing requirement would be eliminated for the congregate living facilities like group homes, community correction facilities and those other things that will still be subject to spacing requirements.

Commissioner Luepke-Pier: The CommonBond project, which is sort of the whole impetus for this whole zoning code text amendment, under the definition alone would it still qualify as supportive housing or does it not require...

Carol Lansing: They don't require participation in services.

Commissioner Luepke-Pier: So just by merely supporting the redefinition but not necessarily the spacing requirement, it would still be allowed to exist then without altering the spacing requirement whatsoever.

Carol Lansing: Yes.

Commissioner Tucker closed the public hearing.

Commissioner Cohen: In my opinion, this will add to the concentration of supportive housing on the north side as if the north side doesn't have enough problems, we don't need another one. My vote is for keeping the spacing requirement.

Commissioner Schiff: I have a question for Commissioner Luepke-Pier. I didn't understand the nuance of her question to Ms. Lansing, could you repeat it?

Commissioner Luepke-Pier: My question was in regard to I think she made an interesting argument about the specific case that we're talking about, the CommonBond one and my question was that the sense I'm getting is that most people don't mind the redefinition as it's proposed but that the problem is with the spacing requirement. If we split the two issues altogether, would her project pass or fail on the definition alone. It seems to me that if we proposed, for example if I were to make a motion saying that we approve the change in definition but not approve the change in the spacing requirement, their project would still be allowed then so it almost seems to me to be a win/win. That was what I was wondering, if her project still qualified as supportive housing, I would ask what further definition tweak we need to make in order to accommodate it because it seems like a worthwhile endeavor and we've heard good things from the neighborhood about it. That was the intent behind my question.

Commissioner Schiff: Thank you for thinking of that solution. If that addresses it, as Ms. Lansing said she thinks it does, then that's fine with me as a suggestion because that was the impetus for this entire amendment.

Commissioner Luepke-Pier: Then I will make a motion to approve the changes in definition as recommended by staff, but not to approve the changes to the spacing requirement. I think I've spoken about that already, but I do want to say that if we look at the map you will see there are concentrations. There are areas of the city larger than north Minneapolis altogether that have zero supportive housing or even associated housing and then we see a lot of concentration in north Minneapolis. I have a concern. It sounds to me as though the 32 you researched, 12 of them were able to get a variance on the spacing requirement due to Fair Housing. On one hand it's working to say there's a situation to say it's still called for even though it violates the quarter mile requirements, but at the same time I look at current situations and current land values in north Minneapolis and like they said, with the tornado and foreclosures a lot of vacant land is there and I don't see the need to further add to an area that already has a strain on the resources. I do wonder when social service agencies want to provide this amenity, are they doing it just to pat themselves on the back because it seems to me like a really lazy way out to just go to the area where the land is the cheapest. Just looking at the map, that's what the map is telling me because they tend to be concentrated in areas where the land is less expensive. That's a shame because it's denying their clients an opportunity to live in neighborhoods that perhaps do have better services, better amenities and better support networks. On one hand, it will keep the providers on the up and up and have them work a little harder to provide a better end product to their clients and at the same time it will help the neighborhoods maybe get back on their feet a little bit. That will be my motion.

Commissioner Tucker: You're moving approval of the changes to 520.160, definition of daily living skills...that part? Number one and two under there will not be deleted, that's your motion?

Commissioner Luepke-Pier: (off microphone)

Staff Pennucci: In some sense it is in many ways similar to, from a staff perspective, eliminating the spacing requirement that it is something we are often asked to look at and provide either reasonable accommodation or vary so it is something that we don't feel is... it's often buried, it's typically approved. Density and occupancy are regulated in other parts of the City's ordinances.

Commissioner Luepke-Pier: I've been asked to clarify my motion. To clarify, I'm supporting the recommended staff changes to 520.160, which is the definitions. In regard to 536.2, I am not willing to change sub-point one; however, I am willing to accept the change to sub-point two which is in regard to the maximum number of people. (Cohen seconded).

Commissioner Tucker: We have a motion to change some definitions, but eliminate the spacing requirements as listed in number one under 536.20.

Commissioner Kronzer: I do support the motion as it's on the table. I have come around to agree to remove the spacing requirement because I don't think it's working. I think the reasonable accommodation and Fair Housing Act trumps it most times. I am in favor of having staff look at ways they can more equally space supportive housing throughout the entire city. I don't know if we can add a condition on to this text amendment or if that's not welcome. I do think it's in the City's interest how to equally space these more fairly throughout the entire city.

Commissioner Schiff: Thank you Commissioner Luepke-Pier for making this suggestion. This gets us where we want to be which allows the Curve to move forward. I want to let members of the Old Highland neighborhood know that I didn't introduce this without being approached by advocates of the Curve who wanted to see that project move forward in your neighborhood and your Council Member, Council Member Samuels, who understood from talking to staff that the quarter mile spacing rule would not allow the Curve to move forward. We found a way here to modify the quarter mile spacing rule that still allows good projects like the Curve to move forward. The reason there haven't been a lot of fights lately over affordable housing is in the past decade the city has changed its funding formula as Ms. Lansing referred to. Today, the majority of new affordable housing units in Minneapolis are built in non-impacted districts. That was achieved by changing the score form, the rating process, for new applications. If a project is suggested in non-impacted neighborhoods, it gets so many bonus points it automatically jumps to the top of the funding formula. That is the best way to address this concentration of poverty issues, to make sure we're not investing in new construction only in high impact neighborhoods, but that we are coming up with new tools – for example, mixed income buildings. We didn't develop those as a city 20 years ago when the supportive housing text amendment was written as part of the zoning code. New funding formulas have been figured out with modern financing techniques that have been proven to be quite successful and in most housing projects today that go up that are a variety of income levels, you wouldn't even know driving by. For example, the West River Commons on Lake Street and West River Road is 20% Section 8. There has not been a peep about that since that was built in the last decade and many other projects like it throughout the city. Thanks for coming forward and thanks for supporting the Curve. That is a great project and the new changes to the amendment will make sure that good projects that are moving forward don't get caught up unintentionally with this section of the code.

Commissioner Tucker: As I understand it, our motion is to change definitions as staff recommends under 520.160. Under 536.20, Supportive Housing, number one will be retained. Number two, maximum number of persons will be deleted and the others renumbered accordingly.

Aye: Cohen, Kronzer, Luepke-Pier, Schiff and Wielinski **Not present:** Huynh, Mammen and Motzenbecker

Motion carried.